

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

IN RE:	:	CASE NO. G04-21276-REB
	:	
GARY LYNN DACUS,	:	
	:	
Debtor.	:	
	:	
_____	:	
	:	
GARY LYNN DACUS,	:	ADVERSARY PROCEEDING
	:	NO. 04-2058
	:	
Plaintiff,	:	
	:	
v.	:	
	:	CHAPTER 7
GEORGIA DEPARTMENT OF REVENUE,	:	
	:	
Defendant.	:	JUDGE BRIZENDINE
	:	

**ORDER GRANTING DEFENDANT’S MOTION
FOR SUMMARY JUDGMENT AS TO REMAINING CLAIM**

Before the Court is the motion of Defendant, the Georgia Department of Revenue, filed on October 26, 2004, for summary judgment as to remaining claim on the Complaint of Plaintiff-Debtor.¹ In this motion, which is unopposed, Defendant contends the tax debt for 1994 should also be excepted from discharge, citing 11 U.S.C. § 523(a)(1)(B)(i) which provides that a “discharge under section 727 ... does not discharge an individual debtor from any debt – (1) for a tax or customs duty – ... (B) with respect to which a return, if required – (i) was not filed” Defendant argues that Debtor failed to file a required state income tax return for 1994. *See* O.C.G.A. § 48-7-56. Thus, the taxes Debtor failed to report should be excepted from discharge.

¹ The Court previously granted Defendant’s motion for summary judgment regarding additional state income taxes owed by Debtor for 1993 by Order entered on October 7, 2004.

See generally Crawford v. United States (In re Crawford), 115 B.R. 381 (Bankr. N.D.Ga. 1990); *Haywood v. State of Illinois (In re Haywood)*, 62 B.R. 482, 485 (Bankr. N.D.Ill. 1986).

The Court has considered the evidence offered by Defendant, which is undisputed, as well as the argument of Defendant's counsel, and upon review of same and the record herein, it is

ORDERED, ADJUDGED, AND DECREED that Defendant's motion for summary judgment as to remaining claim be, and hereby is, **granted**.

All matters having herein been addressed, the Clerk is directed to close this adversary proceeding as administratively appropriate.

The Clerk is further directed to serve a copy of this Order upon counsel for Plaintiff-Debtor, counsel for Defendant, the Chapter 7 Trustee, and the U.S. Trustee.

IT IS SO ORDERED.

At Atlanta, Georgia this _____ day of December, 2004.

ROBERT E. BRIZENDINE
UNITED STATES BANKRUPTCY JUDGE